

BOARD OF EQUALIZATION RULES FOR TAX APPEALS

California Code of Regulations
Title 18. Public Revenues
Division 2.1. State Board of Equalization – Rules for Tax Appeals
Chapter 2: Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees

ARTICLE 3: CLAIMS FOR REFUND

5231. LIMITATION PERIOD FOR CLAIM FOR REFUND.

(a) A refund requested in a claim for refund cannot be approved, unless the claim for refund is filed within the time periods provided in this section.

(b) General Limitation Periods. In general, a claim for refund is timely if it is filed prior to the expiration of the last of the following time periods:

(1) Three years from the last day of the calendar month following the close of the reporting period for which the overpayment was made;

(2) Six months from the date the determination became final, if the overpayment was made under the notice of determination; or

(3) Six months from the date of the overpayment.

(c) Alcoholic Beverages Tax Law. Subdivision (b)(1) does not apply to claims for refund filed under the Alcoholic Beverage Tax Law. In lieu thereof, any such claim for refund is timely if filed within three years from the 15th day of the calendar month following the close of the period for which the overpayment being claimed was made.

(d) Cigarette and Tobacco Products Tax Law.

(1) Stamps and Meter Register Settings. Subdivision (b)(1) does not apply to claims for refund for overpayments made with regard to purchases of stamps or meter register settings. In lieu thereof, a claim for refund for an overpayment made with regard to a purchase of stamps or meter register settings is timely if filed within three years from the due date for the payment of the purchase for which the overpayment was made.

(2) Other Claims for Refund. Subdivision (b)(1) does not apply to claims for refund filed under the Cigarette and Tobacco Products Tax Law, which are not described in paragraph (1) of this subdivision. In lieu thereof, a claim for refund described in this paragraph (2) is timely if filed within three years from the 25th day after the close of the monthly period for which the overpayment being claimed was made.

(3) Exported Tobacco Products. Notwithstanding subdivision (b) and paragraphs (1) and (2) of this subdivision, claims for refund based upon the grounds that the tobacco products upon which the tax was paid were exported, must be filed within three months after the close of the calendar month in which the tobacco products were exported.

(e) Tax on Insurers Law. Subdivision (b)(1) does not apply to claims for refund filed under the Tax on Insurers Law. In lieu thereof, any such claim for refund is timely if filed within four years after April 1st of the year following the year for which the overpayment was made. A claim for refund filed under the Tax on Insurers Law may be filed in accordance with section 5233 or may be filed with the Commissioner of Insurance.

(f) Emergency Telephone Users Surcharge Law. Subdivision (b)(1) does not apply to claims for refund filed under the Emergency Telephone Users Surcharge Law. In lieu thereof, any such claim is timely if filed within three years after the last day of the second month following the close of the month for which the overpayment being claimed was made.

(g) Hazardous Substances Tax Law. Subdivision (b)(1) does not apply to claims for refund filed under the Hazardous Substances Tax Law. In lieu thereof, any such claim is timely if filed within three years after the date taxes were due and payable for the period for which the overpayment was made.

(h) Fee Collection Procedures Law, Integrated Waste Management Fee Law, Underground Storage Tank Maintenance Fee Law, and Oil Spill Response, Prevention, and Administration Fees Law. Subdivision (b)(1) does not apply to claims for refund filed under the Fee Collection Procedures Law, Integrated Waste

Management Fee Law, Underground Storage Tank Maintenance Fee Law, and Oil Spill Response, Prevention, and Administration Fees Law. In lieu thereof, any such claim is timely if filed within three years after the due date of the payment for the period for which the overpayment was made.

(i) Diesel Fuel Tax Law. Subdivision (b) does not apply to claims for refund filed under Revenue and Taxation Code section 60501 (diesel fuel lost sold or removed) or 60502 (ultimate vendor claims). In lieu thereof, any such claim for refund is timely if filed within three years from the date of the purchase of the diesel fuel to which the claim relates, or, if the tax was not invoiced at the time of the purchase of the diesel fuel, six months after the receipt of an invoice for the tax, whichever period expires later.

(j) Waivers.

(1) In addition, where a claimant has executed a waiver extending the statute of limitation for assessment applicable to a reporting period, any claim for refund filed with regard to that reporting period during the time agreed to in the waiver will be timely filed.

(2) This subdivision regarding waivers does not apply to claims for refund filed under the Tax on Insurers Law or the Emergency Telephone Users Surcharge Law, or claims described in subdivision (i) of this section.

(k) Financially Disabled Individuals.

(1) The periods described in subdivisions (b), (c), (d)(2), (f), (g), and (h) of this section are suspended during any period of an individual's life that the individual is financially disabled.

(2) An individual is financially disabled if:

(A) The individual is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment of the individual that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months; and

(B) Proof of the individual's impairment is provided.

(3) An individual is not financially disabled during any period that the individual's spouse or any other person is authorized to act on behalf of the individual in financial matters.

(4) This subdivision does not apply to claims for refund filed under the Tax on Insurers Law or claims for refund of overpayments made with respect to purchases of stamps or meter register settings filed under the Cigarette and Tobacco Products Tax Law.

(l) Levies and Liens. A claim for refund for an overpayment of a sales or use tax collected by means of levy, through the use of liens, or by other enforcement procedures is timely if filed within three years of the overpayment.

Note: Authority cited: Government Code section 15606; Revenue and Taxation Code sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601.

Reference: Revenue and Taxation Code sections 6902, 6902.3, 6902.4, 8128, 8128.1, 9152, 9152.1, 12978, 30178, 30178.1, 30362, 30362.1, 32402, 32402.1, 32407, 38602, 38602.5, 40112, 40112.1, 41101, 41101.1, 43452, 43452.1, 45652, 45652.1, 50140, 50140.1, 55222, 55222.1, 60507, 60522, 60522.1.

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